



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 4303-98

29 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 30 March 1965 at age 17. The record shows that during the period from 7 September 1965 to 13 July 1966 you received nonjudicial punishment on two occasions and were convicted by two summary courts-martial. Your offenses were three periods of unauthorized absence totaling about 13 days and wrongful appropriation of military clothing.

The record shows that you served in Vietnam from 7 October 1966 to 15 December 1966. You returned to Vietnam on 20 March 1967 and participated in 10 combat operations and were wounded in action. Subsequently, you agreed to extend your tour of duty in Vietnam in exchange for 30 days of leave. The record shows that you never returned from leave and were an unauthorized absentee from 11 September 1967 until you surrendered on 8 July 1968.

On 15 September 1968 you were returned to your unit in Vietnam. A special court-martial convened on 24 December 1968 and convicted you of the foregoing period of unauthorized absence of about 301 days. The court sentenced you, as mitigated to reduction to pay grade E-1, forfeitures of \$96 pay per month for

four months, and confinement at hard labor for four months. You were restored to duty from confinement on 22 march 1969. Subsequently, you participated in five combat operations. You left Vietnam on 10 October 1969.

The record shows that you were released from active duty on 20 October 1969 with your service characterized as being under honorable conditions. Subsequently, you were issued a general discharge at the end of your military obligation.

Character of service is based, in part on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your conduct mark average has been computed as 3.5. A minimum average mark of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education and your combat service in Vietnam. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your special court-martial conviction for a lengthy period of unauthorized absence, your other misconduct and your failure to achieve the required average mark in conduct. The Board believed that your combat service in Vietnam was considered when the special court-martial did not sentence you to a bad conduct discharge. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director